

**FILED**

December 11, 2024

CLERK, U.S. DISTRICT COURT  
WESTERN DISTRICT OF TEXAS

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION**

BY: NM  
DEPUTY

**GONZALO CORPUS,**

**Plaintiff,**

**V.**

**DEPARTMENT OF VETERANS  
AFFAIRS,**

**Defendant.**



**CIVIL NO. SA-23-CV-1478-OLG**

## ORDER

The Court has considered United States Magistrate Judge Elizabeth S. Chestney’s (“Judge Chestney”) Report and Recommendation (the “Recommendation”) (Dkt. No. 26), filed on November 15, 2024, concerning Defendant’s Motion to Dismiss (the “Motion to Dismiss”) (Dkt. No. 14) and Plaintiff’s Motion to File a Second Amended Pleading (the “Motion for Leave to Amend”) (Dkt. No. 24). In the Recommendation, Judge Chestney recommended that the Motion to Dismiss be granted and the Motion for Leave to Amend be denied. Dkt. No. 26 at 1, 19. Judge Chestney further recommended that that the decision of the Merit Systems Protection Board (“MSPB”) be affirmed. *Id.* at 19. No objections were filed.

When no party objects to a magistrate judge’s recommendation, the Court need not conduct a de novo review of the entire record. *See* U.S.C. § 636(b)(1) (“A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings and recommendation to which objection is made.”); *see also* FED. R. CIV. P. 72(b). Rather, the Court need only review the magistrate judge’s recommendation to determine whether it is clearly erroneous or contrary to law. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989).

After reviewing the Recommendation, the Court concludes that it is correct. Accordingly, the Recommendation (Dkt. No. 65) is **ACCEPTED** and, for the reasons set forth therein, the

Motion to Dismiss (Dkt. No. 14) is **GRANTED** and the Motion for Leave to Amend (Dkt. No. 24) is **DENIED**.

**IT IS THEREFORE ORDERED** that Plaintiff's claims arising under the Age Discrimination in Employment Act and Title VII of the Civil Rights Act of 1964 are **DISMISSED WITHOUT PREJUDICE** for failure to exhaust his administrative remedies.

**IT IS FURTHER ORDERED** that Plaintiff's disability discrimination claim is **DISMISSED WITH PREJUDICE** for failure to state a claim upon which relief can be granted.

**IT IS FURTHER ORDERED** that the decision of the MSPB is **AFFIRMED**.

This case is **CLOSED**.

It is so **ORDERED**.

**SIGNED** this 11 day of December, 2024.



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ORLANDO L. GARCIA  
UNITED STATES DISTRICT JUDGE